

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LESLYE KNOX, et al.,

Plaintiffs,

v.

Civil Action No. 03 CV 4466 (VM)

THE PALESTINE LIBERATION
ORGANIZATION, THE PALESTINIAN
AUTHORITY, et al.,

Defendants.

**FOURTH SUPPLEMENTAL DECLARATION OF
PRIME MINISTER SALAM FAYYAD**

Pursuant to 28 U.S.C. § 1746, I, Dr. Salam Fayyad, declare under penalty of perjury as follows:

1. I am over eighteen years old, and I am competent to make this declaration.

Unless otherwise stated herein, the facts set forth below are based on my personal knowledge.

2. I am the Prime Minister and Finance Minister of the Palestinian National Authority ("PNA"). I also serve as the director of the Palestine Liberation Organization's ("PLO") Economic Affairs Department.

3. I submit this declaration in further supplementation to my declaration dated May 8, 2008, my supplemental declaration dated June 12, 2008, my second supplemental declaration dated July 25, 2008, and my third supplemental declaration dated August 29, 2008, which I understand were previously submitted in support of the Motion to Reduce Amount of Bond filed by Defendants in the above-captioned matter.

4. I understand that Magistrate Judge Katz has recommended that, as a condition of vacating the default judgment in the *Knox v. PLO* case, the PNA/PLO post security in the amount of \$20 million, with additional deposits of \$5 million per month, up to a maximum of \$120 million security. Such a condition is impossible for the Palestinian National Authority to meet given its current financial situation.

5. The Palestinian National Authority's already precarious financial condition has significantly worsened in recent months. The worsening financial situation is placing increasing strains on the PNA government's ability to make its payroll, provide basic services, and provide a social safety net -- all of which are critical to maintaining order and support for a more moderate Palestinian Government.

6. The PNA's average monthly revenue for 2008 was \$147.1 million. The average monthly revenue for the First Quarter of 2009 has dropped to \$105.5 million. At the same time our expenditures are growing. The PNA's average monthly expenditures in 2008 were \$240.5 million. The average monthly expenditures for the First Quarter for 2009 have climbed to \$252 million. The average monthly shortfall has thus grown from \$93.4 million in 2008 to \$146.5 million in the First Quarter of 2009 -- a 50% increase.¹ Attached as Exhibit 1 are financial statements prepared by the Ministry of Finance showing the revenue, expenditure, and shortfall ("Balance") numbers for 2008 (*see* Table 1). Attached as Exhibit 2 are financial statements prepared by the Ministry of Finance for the First Quarter of 2009 showing revenue, expenditure, and revenue shortfall ("Balance") numbers for 2009 (*see* Table 1).

¹ The monthly average shortfall for the First Quarter 2009 (the "Balance") is calculated by taking the difference between the "Total Net Revenue" and "Total Expenditures and Net Lending" for January-March 2009, which results in the "Current Balance" figure of \$439.3 million, adding the \$11.1 million "Community Development Projects" expenditures, for a total of \$450.4 million, and then dividing by 3 to get the monthly average of approximately \$150 million. *See* Exhibit 2, Table 1.

7. When the PNA's expenditures exceed its revenues, it has three choices: (i) borrow money from local banks; (ii) raise donations from the international community; or (iii) delay payment of salaries, pensions, etc., and accumulate "expenditure arrears." As I explained in my initial declaration, the PNA accumulated substantial expenditure arrears during the period between January 2006, when Hamas won the legislative elections, and mid-2007, when the Emergency and then Caretaker Governments were created after the Gaza coup. *See* Declaration of May 9, 2008, at ¶21. In 2008, the PNA received a record level of external budgetary support (foreign aid), totaling \$1.763 billion. The aid helped the PNA briefly recover from the arrearages created during the near suspension of donor aid during the January 2006 to mid-2007 period. The 2008 foreign aid was sufficient to allow the PNA to make up its \$1.120 billion dollar shortfall and repay wage arrears, repay private sector arrears, and reduce some of the debt to the commercial banks (an additional \$643.7 million). Nonetheless, at the end of 2008, the PNA still had \$395.5 million in outstanding debt to commercial banks. *See* Exhibit 3, the Ministry of Finance's March 19, 2009, Report on Fiscal Developments: Fourth Quarter 2008 and 2008 Budget Performance at 3-4.

8. In 2009, the situation has again become acutely precarious because we are not receiving commitments from donors and have no assurance from month-to-month that we will even be able to pay salaries. In contrast to average monthly external budget support (foreign aid) of \$146.9 million in 2008, the average monthly external budget support in 2009 dropped to \$92.7 million, almost all of which was received in March. *See* Exhibit 2, Table 7; *compare with* Exhibit 1, Table 7. (Factors contributing to the reduction in external support are discussed in Paragraph 12 below.) This drop in aid comes at a time when our monthly shortfall (the difference between our monthly revenues and expenditures) has increased, leaving a growing

deficit. This is reflected in the fact that the PNA is now again accumulating expenditure arrears (\$43.5 million so far in 2009), and incurring increasing private bank debt. The PNA has incurred \$120.7 million in new private bank debt in the First Quarter of 2009, compared with \$13 million for the Fourth Quarter of 2008. *See* Exhibit 2, Table 1; compare with Exhibit 1, Table 1. In the absence of a predictable, adequate flow of external budgetary support, the PNA exceeded its overdraft limit at the banks already this year, with the result that it could not pay salaries until it secured emergency donor aid.

9. We now are struggling each month to raise or borrow the funds to pay salaries of government employees. The PNA's wage expenditure -- which constitutes just over one-half of the total expenditures -- averaged \$121 million per month in 2008. *See* Exhibit 1, Table 1. In the First Quarter of 2009, the expenditures for wages alone exceed the PNA's total revenues before external budgetary support. *See* Exhibit 2, Table 1 (showing "total net revenue" of \$316.6 million and wage expenditure of \$343.8 million). Our revenue is no longer sufficient to meet even our payroll and pension obligations.

10. Salary payments, which are due at the beginning of each month, have been consistently delayed throughout the First Quarter of 2009. In February 2009, we had to delay paying salaries so the PNA could provide humanitarian relief to those who had been left homeless in Gaza. Tens of thousands of civil servants then went on strike in the West Bank because their salary payments had been delayed for two weeks. Salary payments due at the beginning of April also were delayed and had to be paid in three tranches. When this happens, I have to make the difficult choice of whether to pay the security forces first, Gaza employees, first, or pensioners first. We are concerned that April salaries could be delayed.

11. The delays and uncertainty created by the difficulty of making payroll are adding to the growing unrest. Palestinians are beginning to abandon hope in the peace process and the prospects for a future Palestinian state. The proliferation of checkpoints, roadblocks, and other movement barriers -- now over 600 in the West Bank -- has crippled the Palestinian economy. The restrictions on movement, settlement expansion, destruction of Palestinian homes, as well as the War on Gaza and election of a more hard-line government in Israel, have only deepened the sense of despair. This despair is virtually certain to be exploited to undermine moderation. The PNA must continue to pay its workers and provide basic social services if it is to maintain order and support for a more moderate agenda. With the reduction in revenue and external budgetary support from foreign donors, we are increasingly unable to fund even these basic obligations.

12. The dramatic drop-off in foreign aid is especially worrying. The commitment to provide foreign aid funds for 2009 is markedly lower than for 2008. This is likely due to several factors. The global economic recession has had an obvious impact on many of the donor states. In addition, we are sensing a high level of "donor fatigue." Donors, having stepped in to help address one financial crisis are then faced with a new PNA financial crisis. After having reduced the expenditure arrearages and budget deficit in 2008 with a massive infusion of foreign aid, the PNA now has to address the staggering humanitarian crisis and economic devastation caused by the December 2008-January 2009 War on Gaza. Although the donors made pledges at a March 2009 donors conference to assist with humanitarian relief and rebuilding in Gaza, the PNA has not yet received any funds. Much of the aid is conditioned on certain political conditions being met, such as Israel opening the borders so that funds and rebuilding materials can move into Gaza. We have no reason to expect this will happen soon. Other aid is conditioned on reconciliation between Hamas and Fatah. In any event, much of the aid pledged in March 2009

was for Gaza rebuilding and not for budgetary support. The expected drain on foreign aid caused by the War on Gaza is likely to diminish the aid available for budgetary support. The following are some examples of the recent decline in foreign aid:

a. Our largest source of external budgetary support in 2008 and the First Quarter of 2009 was the PEGASE mechanism set up by the European Union. PEGASE provided \$470.8 million in 2008 for budgetary support. *See* Exhibit 1, Table 7. In the First Quarter of 2009, \$94.2 million of the \$278.1 million the PNA received from foreign donors for budgetary support was through the PEGASE mechanism. As explained immediately below, the PEGASE 2009 budgetary support aid commitment was frontloaded, with the bulk of the contributions being provided in the First Quarter. Accordingly, the total level of external budgetary support aid -- already 50% lower on a monthly basis in 2009 than in 2008 -- likely could drop even further as the year progresses.

For 2009, PEGASE made an aid commitment of €300 million, only €168 million (@ \$223 million) of which was for budgetary support. (This is in contrast to the \$470.8 million received from PEGASE for budgetary support for 2008.) Of the €168 million, €108 was earmarked for government salaries and pension payments and the remaining €60 million was for fuel. At my request, the EU frontloaded its assistance for the First Quarter of 2009, paying €33 million per month for the first quarter (€23 million for salaries/pensions and €10 million for fuel) and then €23 million per month for the next three months (€13 million for salaries/pensions and €10 million for fuel), at which point the €108 million funds made available will be exhausted. *See* Exhibit 4, letter from Roy Dickinson of EU's PEGASE office to Mr. Mazen Jadallah of the PNA Ministry of Finance describing the frontloading of the salary/pension contributions and noting that the funds will be exhausted in mid-2009.

b. The United States provided \$302.3 million in budgetary support aid in 2008 but has not provided any budgetary support aid in 2009. At a March 2009 international donors conference, the United States pledged \$900 million to the PNA, but only a \$715 million spending request was submitted to Congress. Congress has not approved this spending request, and even if it does, the majority of the U.S. aid is earmarked for Gaza humanitarian aid and rebuilding and other development projects rather than for budgetary support. Even if Congress approves the full spending request, \$200 million is the maximum that would be available for budgetary support. This “best-case” scenario is in contrast to the \$302.3 million received from the U.S. for budgetary support in 2008. Congress is of course free to fund less than the requested amount and, in my experience, the amount the PNA actually receives from international donors is a small fraction of the pledged amount.² I thus expect the amount of aid we receive from the U.S. for budgetary support to be at least one-third lower in 2009 than it was in 2008.

c. One final example. In 2008, The Kingdom of Saudi Arabia provided \$234.1 million for budgetary support. Exhibit 1, Table 7. By contrast, in the First Quarter of 2009, Saudi Arabia provided only \$22.9 million. Exhibit 2, Table 7. We do not have a commitment from Saudi Arabia for any additional budgetary support for 2009.

13. One also cannot overstate the devastation and severe financial setback caused by the December 27, 2008, to January 17, 2009, War on Gaza, which Israel refers to as “Operation Cast Lead.” According to preliminary estimates of the Palestinian Central Bureau of Statistics (“PCBS”), the death toll reached 1,315, with more than 5,400 people wounded, including 400 in serious condition. See Exhibit 5, PCBS’s Preliminary Estimate of Economic Losses in Gaza

² The PNA received only \$2.2 billion of the \$7.7 billion pledged at the March 2007 Paris donors conference, and has not yet received any of the funds pledged at the March 2009 Sharm el-Sheikh donors conference.

Strip at 1. The costs of rebuilding are estimated at almost \$2 billion. *Id.* Some 4,100 housing units were completely destroyed, and PCBS estimates that 14% of all of the buildings and establishments in Gaza were damaged in the shelling. *Id.* at 2. There also was substantial damage to the public service infrastructure, including infrastructure relating to the provision of power, water, and sanitation. Poor collection under the adverse conditions prevailing in Gaza makes it necessary for the PNA to cover the cost of electricity. We estimate that additional social support and humanitarian relief needs created by the War on Gaza will increase the PNA's monthly expenditures by \$25 million. In addition, the PNA pledged \$50 million of its own money to the United Nations to assist with the UN relief efforts in Gaza.

14. I understand that Magistrate Judge Katz noted that the PNA receives \$53 million a month in tax transfers when he recommended the bond condition. As explained above, the PNA's revenues -- including the tax transfers -- are not even sufficient to even cover PNA's wage obligations. To be clear, though I remain committed to finding a way to satisfy a \$15 million bond condition, there is no excess money available to post bonds. Moreover, the tax transfer revenue is vulnerable to disruption. The Government of Israel maintains discretion to suspend the tax transfers and indeed has done so in the past. The tax transfers were suspended during the January 2006 to mid-2007 period. More recently, the tax transfers were briefly delayed last year after I had written a letter to members of the European Union asking them not to upgrade relations with Israel until it adheres to its peace process obligations, especially those related to halting all settlement activities. It is unclear to what extent the new government in Israel will use its power to suspend the tax transfers.

15. Finally, the PNA remains committed to participating in good faith in the U.S. litigation. The litigation poses a substantial strain on our staff and resources but we have

remained fully engaged in the litigation since we retained new litigation counsel in mid-2007. Of the eleven cases that have been brought against the PNA in the United States, we are actively participating in discovery in four cases, have motions to dismiss pending in another two, motions to vacate pending in another four, and have secured a voluntary dismissal in another. The head of our Civil Affairs Authority sat for a seven-hour deposition earlier this month. We have complied with all court orders, including those requiring the PNA to pay attorneys' fees associated with the earlier defaults. We remain committed to defending the *Knox* case on the merits.

We cannot, however, post more than the \$15 million bond I previously offered. Even such a bond will require sacrifices and will divert money from essential services. In light of the monthly uncertainty about whether the PNA can fund its most basic operations and the lack of commitment of foreign aid for 2009, I cannot pledge funds in a greater amount. As a result of the stranglehold placed on the Palestinian economy, the Palestinian people in West Bank and Gaza are highly dependent on government support for their very survival. Given the current level of suffering, I cannot in good conscience commit \$120 million for the benefit of one family when the result will be striking workers, basic humanitarian needs left unmet, and civil unrest.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 27th day of April, 2009, in Ramallah, Occupied Palestinian Territory.



Dr. Salam Fayyad
Prime Minister of the Palestinian National Authority
Finance Minister of the Palestinian National Authority
Director of the Economic Department of the PLO